BILL NO. Z-70-06-30

ZONING MAP ORDINANCE NO. Z-____

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. F-13.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated an R-1 District under the terms of Chapter 36, Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and amendments thereto; and the symbols on the City of Fort Wayne Zoning Map No. F-13 referred to therein, established by Section 9, Article III of said Chapter as amended, are hereby changed accordingly, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication thereof.

Jack R. Dunifon

APPROVED AS TO FORM AND LEGALITY,
David R. Keaton
Associate CITY ATTORNEY

Read the first time in full and on motion by Dunifon seconded by Robinson and duly adopted, read the second time by title and referred to the (Committee on) Regulations ~~(and to the City Plan Commission for recommendation) (and Public Hearing to be held after due legal notice, at the Council Chambers, City Hall, Fort Wayne, Indiana, on the ___ day of ___ 196__, at ___ o'clock P.M., E.S.T.~~ & to the Plan Com

Date: 6-23-70 Fred G. Bonahoom
City Clerk

Read the third time in full and on motion by Dunifon seconded by Steigerwald and duly adopted, placed on its passage. ~~Passed~~ (LOST) by the following vote:

	AYES 0	NAYS 9	ABSTAINED	ABSENT to-wit:
Adams		✓		
Dunifon		✓		
Fay		✓		
Geake		✓		
Nuckols		✓		
Robinson		✓		
Rousseau		✓		
Steigerwald		✓		
Tipton		✓		

Date 8-11-70 Fred G. Bonahoom
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(Zoning Map)(General)(Annexation)(Special)(Appropriation)~~ Ordinance ~~(Resolution)~~ No. Z- ___ Zoning Map on the ~~9th~~ day of ~~July~~, 19~~6~~ 70.

ATTEST: (SEAL)

________________ ________________
City Clerk Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of ~~July~~, 196 70 at the hour of 8:30 o'clock P.M., E.D.T.

____
City Clerk

Approved and signed by me this ____ day of __________, 196___, at the hour of ______ o'clock ____.M.,E.S.T.

____
Mayor

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 23, 1970, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-70-06-30; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 27, 1970;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO NOT PASS for the reasons that no need has been shown for the Land Use Plan to be amended, the amendment will not be in the best interest of and benefit to the area involved and of and to the city, and the amendment will be detrimental to and conflicts with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 27, 1970.

Certified and signed this 11th day of August 1970.

Mary Ann Haynie

Mary Ann Haynie
Secretary

Bill No. Z-70-06-30

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance amending the City of Fort Waune Zoning Map No. F-13,

Lost

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance Do Not PASS.

JACK K. DUNIFON, Chairman

EDWIN J. ROUSSEAU, Vice-Chairman

THOMAS G. ADAMS

WILLIAM K. GEAKE

PHIL A. STEIGERWALD

CONCURRED IN

DATE 8-11-70 FUAD G. BONAHOOM, CITY CLERK

Prescribed by State Board of Accounts

A.E. BOYCE CO., MUNCIE, IND. GENERAL FORM NO. 352

RECEIPT

No. 12

GENERAL FUND

FT. WAYNE, IND. June 3 1970

RECEIVED FROM Maxwell Smith & Paul F. Nieter $ 25.00

THE SUM OF Twenty-five and no/100 DOLLARS

ON ACCOUNT OF Re zoning of Sanibel Acres Add, etc

Ann Rogers
AUTHORIZED SIGNATURE

Prescribed by State Board of Accounts

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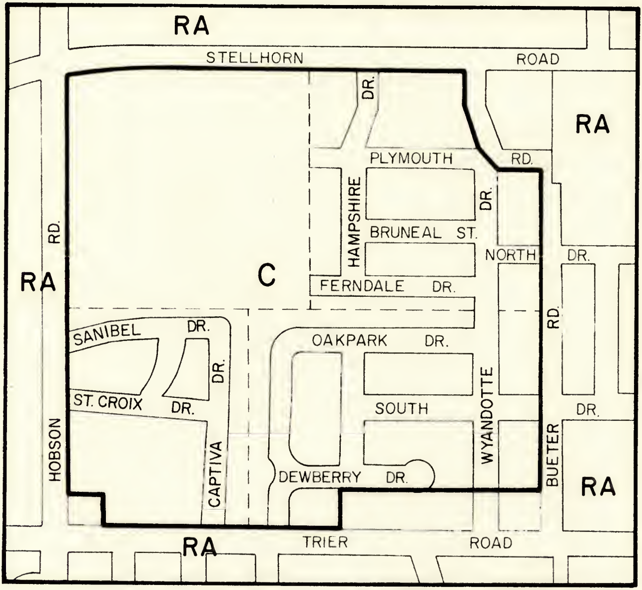

ℂ CHANGE FROM RA TO RI

Z-70-06-30

PETITION TO REZONE

signatures of 211 property owners

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~RS~~ RA District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Sophie L. Mashburn 4104 Hobson Rd

Ronald E. Mashburn. 4104 HOBSON RD.

Doris M. Blue 3311 Sanibel Dr.

Ron D. Blue 3311 Sanibel Dr.

Paul C. Bruggner 3312 Sanibel Dr.

Robert L. Greenlee 3344 Sanibel Dr.

Jean L. Greenlee " "

Fred Graft 3420 " "

Rose Marie Graft 3420 Sanibel Dr.

Richard J. Paxton 4030 Captain Dr.

Patricia A. Paxton 4030 Captain Dr.

(over)

Elynor E Ehmke 3728 Oak Park Dr
Kathleen K. Cummins 3808 Oak Park Dr
Robert E Cummins " " " "
F.C. Hiscutt 3816 Oak Park Dr.
Martha E Hiscutt " " "
Kirk I. Carrington 3821 OAK Park Dr.
Marilyn Carrington "
Esther Murphy 3815 Oak Park Dr
Frank Murphy 3815 Oak Park Dr
Ruthie Kruse 3805 Oak Park Dr.
Rachael C Noyes 4021 Trier Rd
Joann L Noyes 4021 Trier Rd
Helen A. Naive 3927 Trier Road
Nadine A. Strebig 3915 Trier Rd.
Ruth E. Simmons 3861 Trier Rd.
Cora M McIntosh 3843 Trier Rd.
C.H. McIntosh 3843 Trier Rd
~~Mrs. Lloyd G. Heimanne 3749 T.~~
Jacquelyn G. Heimanne 3749 Trier Rd
Jack R. Marquart 3715 Trier Road
Rose Ellen Marquart 3715 Trier Road
Miriam S. Mendenhall 3641 Trier Rd.
Murray Mendenhall 3641 Trier Rd

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Richard A. Rousseau 4233 Hampshire Dr.
Georgette C. Rousseau 4233 Hampshire Dr.
Louis H. Moses 4211 Hampshire Dr.
Mary E. Moses 4211 Hampshire Dr
Robert L. Gaskill 4125 Hampshire Dr.
B. Freya Gaskill 4125 Hampshire Dr
S. Samuel Shaw 3706 Ferndale Dr.
Eileen K. Shaw " " "
Nick J. Frato 3716 FERNDALE DR
Betty M Frato 3716 FERNDALE DR.
Margie Shelton 3726 Ferndale Dr.
John L. Shelton 3726 Ferndale Dr.

(over) (over)

Mrs R. L. Wray	4211 Wyandotte Dr.
Robert L. Wray	4211 Wyandotte Drive Dr.
M. O. Clark	4321 Wyandotte Drive
Marvin R. Gramling	3855 Plymouth Rd.
Hazel I. Gramling	3855 Plymouth Rd.
Mrs. Geo. Goeglein	3833 Plymouth Dr
Mildred G. Goeglein	3833 Plymouth Dr
Patsy R. McNeal	4322 Hampshire Dr.
Jack M. McNeal	4322 Hampshire Dr.
Helen L. Houts	3812 Plymouth Rd.
Dale E. Houts	3812 Plymouth Rd.
Mary L. Stuck	3732 Stellhorn Rd.
Mary L. Stuck	3732 Stellhorn Rd.
Betty L. Seneff	3754 Stellhorn Rd.
Charles Seneff	3754 Stellhorn Rd.
Gail F. Carman	3810 Stellhorn Rd.
Hildegarde Carman	3810 Stellhorn Rd
Hildegarde H. Menking	3828 Stellhorn Rd.
Merle O. Johnson	4343 Wyandotte Dr.
James L. Johnson	4343 Wyandotte Dr.
Anne C. Immel	3942 Stellhorn Rd.
Leila K. Bartz	3954 Stellhorn Rd
John H. Bartz	" " "

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~AA~~ RA District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Alma Foutsinkiger	4015 Captiva Drive
Betty Failor	4012 Captiva Dr.
Richard S. Failor	4012 Captiva Dr
Jane T. Hoagburg	3912 Captiva Dr.
Frank Hoagburg	3912 Captiva Dr.
Mary Beth Marrs	3911 Captiva Dr.
Frank L. Marrs	3911 Captiva Dr.
Lloyd J. Dean	3850 Captiva Dr.
June Davis	3830 Captiva Dr.
Vaughn Davis	3820 Captiva Dr.
Louise B. Davis	3820 Captiva Dr.

(over)

Herbert J. Grant Jr.	3668 Stellhorn Rd.
MARVIN E. ROSEBERRY	3327 Sanibel Dr
Beverly Jo Roseberry	3327 Sanibel Dr.
Jack N Jones	3310 St. Croix Drive
Evelyn R. Jones	3310 St. Croix Dr.
Helen L. Cordes	3915 Evergreen Lane
Charles E. Cordes	3915 Evergreen Lane
Robert W. Bolyard	3923 Evergreen Lane
Lillian L. Bolyard	3923 Evergreen Lane
Harold C. Hickey	3917 Hampshire Dr.
Patty J. Hickey	3917 Hampshire Dr.
Pollard F. Goffer	3706 South Dr
Janet K. Baller	3720 Stellhorn Rd.

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit;

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Edmund R. Meyer, Sr. 3810 Ferndale Drive
Geraldine D. Meyer 3810 Ferndale Drive
Sharlene H. Buse 3735 Bruneal Drive
Thomas W. Stumpf 3753 Bruneal Drive
Judith K. Stumpf 3753 Bruneal Dr
Norma L. Snyder 3771 Bruneal Dr.
Helen J. Repka 3809 Bruneal Dr.
Lionel J. Repka 3809 Bruneal Dr.
June R. Davis 3827 ~~Bruneal~~ Bruneal Dr
Melva A. Wade 4210 Wyandotte Dr.
Vivian Woods Kowalski 4232 Wyandotte Dr.
Richard C. Kowalski 4232 Wyandotte Rd
Geraldine L. Huguenard 4332 Wyandotte Dr.
Donald J. Huguenard 4332 Wyandotte Dr.
~~[illegible] J. [illegible]~~

(over)

Helen J. McKenzie 3892 Plymouth Rd.
Dick W. Hemphill 3872 Plymouth Rd.
Margaret L. Hemphill 3872 Plymouth Rd.
Dorothy E. Fee 3832 Plymouth
John F. Fee 3832 Plymouth Rd.
Rita Berghoff 3736 Plymouth Rd
W. Berghoff 3736 Plymouth Rd
Doris Gene Rice 3908 South Dr
Roy K. Rice 3908 South Dr.
[illegible] L. Murphy 3927 South Dr.
Delbert F. Wartzok 3919 South Dr.
Harry K. Gill 3907 SOUTH DR
James Newville 3707 South Dr.
John W. Mitchell 3778 Oak Pk. Dr.
[illegible]

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~[illegible]~~ RA District to an R-1 District, the real estate described as follows, to-wit:

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Jane B. Novak

Irene E Beck - 4009 Cherrystone Ln.

Herbert C. Beck 4009 Cherrystone Lane

~~Mrs.~~ James R. Davis - 3345 Sanibel

~~Mrs.~~ Paul C. Brueggner 3312 Sanibel

~~Mrs. Richard~~ Eileen M. Kuser 4010 Hobson

Richard Kuser 4010 Hobson

Donald Fechner 3823 Evergreen Lane

Mary Fechner 3823 Evergreen Lane

Opal Gardner 3821 Evergreen Lane

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~R2~~ RA District to an R-1 District, the real estate described as follows, to-wit:

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Donald H Hess 3708 Oakpark Drive.

Dolores M. Hess 3708 Oakpark Drive

John Wendling 3863 WYANDOTTE DR

Alice L Wendling 3863 Wyandotte Dr

Mary L. O... 3851 Wyandotte Dr

Leanne M. Mensing 3843 Wyandotte Dr.

Rosemary E Osborn 3833 Wyandotte Dr.

R.D. Osborn 3833 Wyandotte

L.L. Castator 3832 Wyandotte Dr

Juanita B Castator 3832 Wyandotte Dr.

Leona F. Ocnny 3842 Wyandotte Dr.

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~RR~~ RA District to an R-1 District, the real estate described as follows, to-wit:

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James L. Fanger 3730 Ferndale Dr.
Phyllis M. Fanger " " "
James D'Angelo 3736 Ferndale Dr.
Mary D'Angelo " "
Marianne Heineman 3768 Ferndale Dr.
Charles E. Heineman 3768 Ferndale Dr.
Maynard H. Cook 3736 Bruneal Dr.
James R. Humphrey 3808 Bruneal Dr.
Teresa A. Humphrey 3808 Bruneal Drive
Earl E Boxberger 3828 Bruneal
Gertrude B Boxberger 3828 Bruneal
Ruth W. Messerschmidt 3852 Bruneal Dr.
Herbert A Messerschmidt 3852 Bruneal Dr.

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Irene Stuimenos - 3827 Ferndale Drive
Geo Stuimenos - " " "
H. P. Goeglein - 4106 Wyandotte Dr.
Catherine M. Goeglein - 4106 Wyandotte Dr.
Hazel Gebhart 4026 Wyandotte Dr.
Pauline J Farrar 4016 Wyandotte Dr
James C Farrar " " "
James L MacNamara 5751 Plymouth Rd.
Ruth E MacNamara " "
Marilyn Jeanne Kovats 3852 Ferndale Dr
Gerald W. Waldrop - 3828 Ferndale Dr
Elsie L. Waldrop " " "

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Jr. Donald Brogan - 3864 Wyandotte Dr.

Mary A. Brogan - 3864 Wyandotte

Roger D. Hill - 3714 Plymouth Rd.

Monna Lee Hill 3714 Plymouth Rd.

Robert J. Swain 4120 Hampshire Dr.

Emily J. Swain 4120 Hampshire Dr.

Edson Dickey 4112 Hampshire Dr.

Gertrude Dickey 4112 Hampshire Dr

Robert M. Ayers 3751 Ferndale Dr

Judith M. Ayers 3751 Ferndale Dr.

Nila J. Riddle 3771 Ferndale Dr

10

PETITION TO REZONE

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Fernmae Jellison 3810 Captiva Dr. Ft. Wayne Ind.

Ray E. Bailey 3531 Trier Road Fort Wayne Ind.

Elizabeth L. Bailey 3531 Trier Road Ft. Wayne, Ind.

Jean Barnett 3415 Trier Rd.

Rubie R. Mowery 3407 Trier Rd.

Aaron Schoenefeld 3322 St. Croix Dr.

Eleanor Schoenefeld 3322 St Croix Dr.

Louise Shoecon 3334 St Croix Dr.

Barbara H. Knippen 3404 St. Croix Dr.

Robert M. Knippen "

Robert F. Brinker 3414 St. Croix Dr.

Nancy A. Brinker 3414 St. Croix Dr.

PETITION TO REZONE

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Robert W Phillips 3824 Oak Park Dr

~~Mrs~~ Pat Heie 3926 Oak Park Dr.

Albert G. Eisenhauer 3910 Wyandotte Dr

Elma A. Eisenhauer 3910 Wyandotte Drive

Mildred M. McCrea 3920 Wyandotte Dr.

David H. Yeamans Jr 4004 Wyandotte Dr

[illegible] Yeamans 4004 Wyandotte Dr

Marty Bunck 3917 Oak Park Dr

Josie Hardy 3905 Oak Park Dr

Floyd Hardy " " "

Donald L. Guie 3711 Oak Park Drive.

PETITION TO REZONE

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Val Gardner 3821 Evergreen

Carl P. Boehm 3839 Evergreen Lane

George A. Bruce 3847 Evergreen Lane

Alberta Bruce 3847 Evergreen Lane

Daniel J. Johnson 3907 EVERGREEN LANE

Bernice A. Johnson 3907 Evergreen Lane

Thomas C. Richardson 3916 Evergreen Lane

Walter Bunk 3931 Evergreen Lane

J. W. Budde Jr. 3626 Oakpark Dr

Lee Budde 3626 Oakpark Dr.

Bernice F. Phillips 3826 Oak Park Dr.

City of Fort Wayne

DEPARTMENT OF LAW
1120 Lincoln Tower
J. Robert Arnold, City Attorney

Associate City Attorneys:
Philip A. Davidson
David R. Heaton
G. Stanley Hood
Robert E. Meyers
William L. Wilks

July 27, 1970

City Plan Commission
Fort Wayne, Indiana

Re: Bill No. Z-70-06-30
RA to R-1
NW Quarter, Section 29

Gentlemen:

A Motion to Dismiss or Stay for Lack of Jurisdiction, with accompanying briefs, has been referred to me for legal opinion. The Motion is directed both to the Plan Commission and to the Common Council. This opinion concerns the Motion only as directed to the Plan Commission.

As to the Plan Commission, two points must be remembered:

(1) What is pending before the Plan Commission is not a petition but a proposed ordinance referred to the Commission by the Common Council.

(2) The Plan Commission is an advisory body in rezoning matters. The Commission itself takes no legally effective action.

As to the petition, the Commission has consistently refused to accept petitions on the ground that the Commission is concerned only with what is referred by the Council. If it were not for the administrative practice of attaching the petition to the bill, the Commission would not know who signed the petition,

or even if there were a petition. The petition is not the responsibility of the Plan Commission, nor is it the responsibility of the Plan Commission to challenge the action of the Common Council.

Under the circumstances, the Commission might prefer not to recommend "Do Pass" or "Do Not Pass", but merely to hear and report, which is all the statute requires. The Commission might report:

1. A public hearing was held.

2. The Commission finds that the proposed rezoning would - or would not - be in accord with the master plan.

3. Such other findings of fact pertinent to zoning as the Commission may wish to make.

4. A Motion to Dismiss for Lack of Jurisdiction was filed, which is denied as to the Plan Commission and referred to the Council as to Council action.

If the councilman who signed the bill did so under mistake of fact, he may withdraw the bill with the approval of the Council.

Section 53-742 of Burns Indiana Statutes provides in part:

> "If the city council .... desires an amendment it may direct the plan commission to prepare an amendment and submit it to public hearing within 60 days after formal written request by the city council .... "

If this procedure is followed in the future, the Commission should, of course, act accordingly and not require a bill to be referred to it by the Council.

Yours truly,

David R. Heaton

David R. Heaton,
Associate City Attorney

DRH:jmp

LAW OFFICES
LIVINGSTON, DILDINE, HAYNIE & YODER
LINCOLN TOWER
FORT WAYNE, INDIANA 46802

VON E. LIVINGSTON
WARD E. DILDINE
GILMORE S. HAYNIE (1918-1969)
THOMAS W. YODER
WILLIAM P. FAGAN
DAVID B. KELLER
MILFORD M. MILLER, JR.
NORMAN E. BAKER
CHARLES R. COGDELL
PHILIP L. CARSON
LAWRENCE A. LEVY
EDWARD L. MURPHY, JR.

AREA CODE 219
TELEPHONE
742-8341

July 29, 1970

Honorable Jack K. Dunifon
Chairman, Regulations Committee
Common Council of the City of Fort Wayne, Indiana
4422 Earth Drive
Fort Wayne, Indiana

Re: Zoning Map Ordinance
Bill No. Z-70-06-30

Dear Mr. Dunifon:

Last week you and I discussed the captioned bill and the manner in which your committee was induced to introduce it to the Common Council. At its meeting on July 27, 1970 the Plan Commission heard the petition on its merits and unanimously adopted a resolution in accordance with the recommendation of its site committee that the subject ordinance "DO NOT PASS." In all probability both your committee and the entire Common Council will accept the recommendation of the Plan Commission. However, it is entirely conceivable that some of the petitioners may seek either a private hearing or an additional public hearing before your Regulations Committee. As you know, I represent a group of property owners in the area to be rezoned who are opposed to the rezoning.

I would greatly appreciate your cooperation in advising me if your committee is asked to give any additional hearings or audience on this matter and extending to my clients and me an equal opportunity with the petitioners.

Very truly yours,

LIVINGSTON, DILDINE, HAYNIE & YODER

By William P. Fagan
William P. Fagan

WPF:JD

cc: Mr. Harry Scott
Fort Wayne National Bank Bldg.
Fort Wayne, Indiana

Mr. Otto Bonahoom
708 Anthony Wayne Bank Bldg.
Fort Wayne, Indiana

City of Fort Wayne Plan Commission
425 South Calhoun Street
Fort Wayne, Indiana

Mr. Oliver H. Eggers
1018 Anthony Wayne Bank Bldg.
Fort Wayne, Indiana

BEFORE THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AND THE PLAN COMMISSION OF THE CITY OF FORT WAYNE, INDIANA	)	IN THE MATTER OF ZONING MAP ORDINANCE NO. Z ________; AND BILL NO. Z-70-06-30

MOTION, IN THE ALTERNATIVE, TO DISMISS
OR STAY PROCEEDINGS FOR LACK OF JURISDICTION

Comes now GEORGE BOJRAB and CRYSTAL BOJRAB, husband and wife, PETER BOJRAB and MABEL M. BOJRAB, husband and wife, and ISAAC BOJRAB and MARIE BOJRAB, husband and wife, by their attorney, WILLIAM P. FAGAN, and E. JANE RINEHART, Administratrix of the Estate of OLGA A. PRANGE, by her attorney, OLIVER H. EGGERS, (hereinafter jointly called "Remonstrators") who respectfully move, in the alternative, for either (1) the dismissal of the captioned proceedings, or (2) a stay thereof, and, in support of said motion would represent and petition to both the Common Council of the City of Fort Wayne, Indiana and the Plan Commission of the City of Fort Wayne, Indiana that:

1. The captioned ordinance and bill requests the rezoning, from an RA district to an R1 district, of real estate which is bounded on the north by Stellhorn Road; on the east by the Bueter Road; on the south by the Trier Road, and on the west by the Hobson Road, of which, approximately thirty-five percent (35%) is owned by Remonstrators;

2. To entitle the captioned bill to consideration by, and public hearing before, the Fort Wayne Plan Commission, the ordinance must have been introduced before the Common Council of the City of Fort Wayne as the result of a petition duly signed and filed either by (1) "The Plan Commission or (2) by the owners of fifty per centum (50%) or more of the area involved in the petition" (Burn's Ind. Stats. 53-764, Vol. 9, Part 3, Appx. 8).

3. The petition presented to the Common Council, in reliance upon which the subject ordinance was introduced and subsequently referred to the Plan Commission, was not duly signed either by the Plan Commission or by the owners of fifty per centum (50%) or more of the area involved in the petition.

4. Consequently, the Common Council of the City of Fort Wayne had no jurisdiction to introduce the subject ordinance nor does the Plan Commission of the City of Fort Wayne have any jurisdiction to consider or have a public hearing with regard to such ordinance.

WHEREFORE, Remonstrators pray, in the alternative, that (1) the subject proposed ordinance, bill and the petition, in reliance upon which they were introduced, be dismissed and withdrawn for lack of jurisdiction; or (2) that all proceedings with regard to the captioned matter be stayed until such time as a duly signed petition which meets statutory requirements is filed with the Common Council of the City of Fort Wayne and

an ordinance is introduced in reliance upon such proper petition.

Dated this 30 day of July, 1970.

LIVINGSTON, DILDINE, HAYNIE & YODER

By ______________________
(William P. Fagan)
Attorney for GEORGE and CRYSTAL BOJRAB; PETER and MABEL M. BOJRAB; and ISAAC and MARIE BOJRAB

____
(Oliver H. Eggers) Attorney for E. Jane Rinehart, Administratrix of the Estate of Olga A. Prange

MEMORANDUM IN SUPPORT OF MOTION

As shown on page 31-13-29B of Vol. II of the Aer-O-Plat books of Allen County, Indiana, the real estate which is the subject of the captioned ordinance and bill consists of approximately 220 residential lots which are owned by several parties other than Remonstrators and 40 acres of land owned by Remonstrators. The said 220 lots consist of approximately 15,000 square feet each, making a total of 3,300,000 square feet, or 75.75 acres which, when added to the 40 acres owned by Remonstrators, makes a total of approximately 115.75 acres being the subject of the captioned petition. To have the petition signed by the owners of more than fifty per centum (50%) of the area involved, the petition would have to be

signed by the owners of 57.87 acres or more.

Examination of the subject petition discloses that it is signed by 211 people who purport to own 129 lots. Such examination will further disclose, however, that both of the owners of only 82 lots have signed the petition. Since each of these lots average approximately 15,000 square feet, the subject petition has been duly signed by all of the owners of only 1,230,000 square feet which is approximately 28.23 acres and less than fifty per centum (50%) of the land involved. Consequently, the petition which was the basis for the captioned ordinance and bill does not meet the minimum requirements established by Burns' Ind. Stats. 53-764, Vol. 9, Part 3 Appx. 8. Since the petition was not signed either by the Plan Commission or the owners of fifty percentum (50%) or more of the land involved, the captioned ordinance should not have been introduced to the City Council or referred to the Plan Commission. Since the underlying petition is not a proper petition, the captioned proposed ordinance is not a validly introduced ordinance and, consequently, the Plan Commission has not jurisdiction to conduct a hearing thereon.

Respectfully submitted,

LIVINGSTON, DILDINE, HAYNIE & YODER

By William P. Fagan
(William P. Fagan)

Dated July 30, 1970.

CERTIFICATE OF SERVICE

I hereby certify that on the 30 day of July, 1970, I served a copy of the above and foregoing Motion by personally delivering a copy of the same to the Clerk of the City of Fort Wayne, the Fort Wayne Plan Commission, J. Robert Arnold, Attorney for the City of Fort Wayne, Paul B. McNellis, Attorney for the Plan Commission of the City of Fort Wayne, and Ralph Blume, of Nieter, Smith, Blume, Wyneken, Dixon & Levine, Attorney for Petitioners.

William G. Fagan

STATE OF INDIANA)
) SS: AFFIDAVIT
COUNTY OF ALLEN)

Jack K. Dunifon, having been first duly sworn upon his oath deposes and says that:

1. He is a duly elected, qualified and acting member of the Common Council of the City of Fort Wayne, Indiana and the Chairman of its Regulations Committee through which ordinances to amend the zoning map of the City of Fort Wayne, Indiana are introduced to the Common Council.

2. He is the self same Jack K. Dunifon who signed Bill No. Z-70-06-30 now pending before the Common Council and the Plan Commission of the City of Fort Wayne, Indiana to amend the zoning ordinance of the City of Fort Wayne, Indiana;

3. He did not sign said Bill as a sponsoring or proposing member of the Common Council or Regulations Committee thereof but strictly in his capacity as Chairman of the Regulations Committee of the said Common Council upon the belief that the said Regulations Committee had been presented with a petition validly signed by the owners of more than 50% of the real estate to be rezoned for which Petition the necessary filing fee had been paid.

4. The procedure established by the said Common Council and Regulations Committee thereof requires that if a petition to amend the zoning map is purportedly signed by the owners of fifty percent (50%) or more of the land to be rezoned and the filing fee for such peition is paid, the Chairman of

EXHIBIT "D"

the Regulations Committee must sign the proposed Bill for introduction to the Common Council. He has no choice. Affiant performed that administrative function and nothing more.

5. Affiant has not sponsored and is not sponsoring the said Bill and did not, as a member of the Common Council of the City of Fort Wayne, introduce the said Bill.

Further affiant sayeth not.

Jack K. Dunifon
(Jack K. Dunifon)

Subscribed and sworn to before me, a Notary Public, this 23 day of July, 1970.

Charlotte P. Brown
Notary Public

My Commission Expires:
March 6, 1974

STATE OF INDIANA)
) SS: AFFIDAVIT
COUNTY OF ALLEN)

JEROME E. EGGERS, having been first duly sworn upon his oath, deposes and says that:

1. He has examined the certificate of the auditor of Allen County dated July 24, 1970 with regard to which owners of lots in Sanibel Acres Addition, Gerke's Trier Road Addition, Gerke's Trier Road Additions Section 2 and 3, and Exner's Addition, signed a certain petition to rezone that land which Petition is attached to the said auditor's certificate;

2. He has also examined page 31-13-29 B of Sidwell's Aero-Plat of Allen County, Indiana and computed the number of square feet in each of the lots reflected on the auditor's said certificate. Thereafter, he totaled the number of square feet included within the lots enumerated on the auditor's said certificate and converted the aggregate square footage to a number of acres by dividing it by 43,560 square feet per acre.

3. That such examination and computations reflect that there are eighty (80) lots enumerated on the auditor's said certificate which consist of, in the aggregate, 1,523,431 square feet which are 35 acres.

Further affiant sayeth not.

Jerome E Eggers
Jerome E. Eggers

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 24 day of July, 1970.

Charlotte P. Brown
Notary Public

My Commission Expires:

March 6, 1974

BEFORE THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AND THE PLAN COMMISSION OF THE CITY OF FORT WAYNE, INDIANA	)	IN THE MATTER OF ZONING MAP ORDINANCE NO. Z__________; AND BILL NO. Z-70-06-30

WITHDRAWAL OF MOTION AND STIPULATION OF JURISDICTION

Come now GEORGE BOJRAB and CRYSTAL BOJRAB, husband and wife, PETER BOJRAB and MABEL M. BOJRAB, husband and wife, and ISAAC BOJRAB and MARIE BOJRAB, husband and wife, by their attorney, WILLIAM P. FAGAN, and E. JANE RINEHART, Administratrix of the Estate of OLGA A. PRANGE, by her attorney, OLIVER H. EGGERS (hereinafter jointly called "Remonstrators") who heretofore filed, in these proceedings, their motion, in the alternative, for either (1) the dismissal of the captioned proceedings, or (2) a stay thereof, and now withdraw their said motion and stipulate that both the Common Council of the City of Fort Wayne, Indiana and the Plan Commission of the City of Fort Wayne, Indiana have jurisdiction over the subject matter of these proceedings.

WHEREFORE, Remonstrators pray that the report of the Fort Wayne Plan Commission be accepted and adopted and that the Common Council take appropriate action with regard

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AUG 3 1970
FUAD G. BONAHOOM
CLERK, CITY COURT

to a vote on the subject proposed ordinance.

Dated this 30th day of July, 1970.

LIVINGSTON, DILDINE, HAYNIE & YODER

By William P. Fagan
(William P. Fagan)
Attorney for GEORGE and CRYSTAL BOJRAB; PETER and MABEL M. BOJRAB; and ISAAC and MARIE BOJRAB

Oliver H. Eggers wpf
(Oliver H. Eggers) Attorney for E. Jane Rinehart, Administratrix of the Estate of Olga A. Prange

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of July, 1970, I served a copy of the above and foregoing Motion by mailing a copy thereof to the Clerk of the City of Fort Wayne, the Fort Wayne Plan Commission, J. Robert Arnold, Attorney for the City of Fort Wayne, David R. Heaton, Associate City Attorney of the City of Fort Wayne, and Ralph Blume, of Nieter, Smith, Blume, Wyneken, Dixon & Levine, Attorney for Petitioners.

William
(William P. Fagan)

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OF
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NO. Z________; AND
BILL NO. Z-70-06-30</td></tr>
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SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION
TO DISMISS FOR LACK OF JURISDICTION

When Remonstrators filed their original Motion to Dismiss the captioned proceedings for lack of jurisdiction and their Memorandum in support thereof, the same was done hurriedly, and although substantially accurate, it does contain several inaccuracies and estimates which are corrected and made more accurate herein as the result of further inquiry and research.

In further support of the Motion in the Alternative to Dismiss or stay proceedings for Lack of Jurisdiction, Remonstrators would respectfully represent and show to the Common Council of the City of Fort Wayne, Indiana, and the Plan Commission of the City of Fort Wayne, Indiana, that:

1. The captioned ordinance and bill requests the rezoning, from an RA district to an R1 district, of real estate which is bounded on the north by Stellhorn Road; on the east by the Bueter Road; on the south by the Trier Road, and on the west by the Hobson Road, of which approximately twenty-five per centum (25%) is owned by Remonstrators. Although,

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FUAD G. BONAHOOM
CLERK, CITY COURT

normally, streets and roads are not included within an area to be rezoned, they must be included within the "area involved" in the captioned petition (as that term is used in Burns' Ind. Stats. 53-764,) since petitioners specifically describe in their petition, the several subdivisions included within the area to be rezoned "and all legal streets and roads in said additions". Consequently, the captioned proceeding involves approximately 160 acres of land, of which Remonstrators own 40 acres.

2. As shown by the Xerox copy of page 31-13-29B of Vol. II of the Sidwell Aer-O-Plats of Allen County, Indiana, a copy of which is attached hereto, made a part hereof, and marked Exhibit "A", the said 160 acres consists of 40 acres owned by Remonstrators, several streets and public roads which are owned by the general public, and not by either petitioners or Remonstrators, and 230 lots owned by several parties other than Remonstrators.

3. Since streets and public roads are owned by the public, they cannot be included within the land owned by the petitioners although, as a result of the wording of the petition, they must be included within the "area involved in the petition". Even though streets and roads cannot be zoned, they are "involved" in this petition since Petitioners specifically asked that they be rezoned.

4. The petition appears to be signed by 211 people

but, except for the address of their place of residence, there is no way of determining, from the petition, which, if any, lot within the area involved in the petition each petitioner owns. The petition, in all of its sixteen counterparts, was submitted to the Auditor of Allen County for his examination and certification with respect to ownership, which certificate is attached hereto, made a part hereof and marked Exhibit "B".

5. As evidenced by the certificate of the Auditor of Allen County, which is attached hereto as Exhibit "B", the petition is duly signed by all of the record owners of only 80 lots. Examining the dimensions of those lots, as reflected on Exhibit "A" hereto, shows that they consist, in the aggregate, of 1,523,431 square feet which is 35 acres. This is further substantiated by the examination and computations made by Jerome E. Eggers, which are reflected in his affidavit which is attached hereto, made a part hereof and marked Exhibit "C".

6. To comply with the requirements of Burns' Ind. Stats. §53-764, the petition, which is the subject of the captioned bill, would have to be signed by either:

(a) The Plan Commission; or

(b) The Owners of "fifty per centum (50%) or more of the area involved in the petition".

To meet this requirement, the captioned petition would have to be correctly signed by all of the Owners of eighty (80) acres or more of the area involved in the petition. As shown in

paragraph 5 above, the said petition is not so signed.

7. To be "duly signed" by the "Owners" of fifty per centum (50%) or more of the area involved in the petition, the petition must be signed by all holders of title of land to be included. The legislature would not have used the words "the Owners" unless it meant all the Owners. Otherwise, it would have said: "an Owner" or "some Owners" or it would have required, as it has in several other cases, that the petition be signed by more than fifty per cent (50%) of the Owners of the real estate in the area. The fifty per cent (50%) requirement used in the Zoning Statutes, however, specifically directs itself to the amount of area involved and not the number of people who own that area. By using the plural, the legislature indicated its consideration of, and its intention to provide for, the common situation where homes are titled in the names of husband and wife as tenants by the entireties. The unity of interest of a husband and wife in a tract of ground which they own as tenants by the entireties was recognized by the appellate court of the State of Indiana in the case of Yarde vs. Yarde, 76 NE2nd 625, in which the court said that:

> " * * * the rule in Indiana is well established that neither husband nor wife have a separate interest in real estate by the entireties. There is unity of estate, unity in conveying and encumbering it, unity of possession and unity of control."

Consequently, the Auditor of Allen County properly eliminated from his count lots which are titled in the names of husband and wife where the signature of either of them do not appear on the petition.

8. Argument can be made to the effect that any member of the common council may, at any time, introduce any bill or ordinance that he wishes. Remonstrators respectfully submit, however, that this general power is limited by the provisions of Burns' Ind. Stats, 53-742 which provides, in part, that:

> "After the adoption of a master plan and ordinance, all amendments to it shall be adopted according to the procedures set forth in §37 through 40 * * *, except that, if the city council or board of county commissioners desires an amendment it may direct the plan commission to prepare an amendment and submit it to public hearing within 60 days after formal written request by the City Council or Board of County Commissioners." (Emphasis added).

Remonstrator contend that the above-cited Burns' Ind. Stats. 53-764 prescribes the procedure through which the plan commission and the owners of fifty per cent (50%) or more of the real estate involved may introduce a bill for a proposed amendment to the zoning ordinance and that Burns' Ind. Stats. 53-742 prescribes the procedure through which the Common Council or Board of Commissioners may initiate proceedings to amend the zoning ordinance.

9. However, in the final analysis that question need not be answered in these proceedings. The subject bill and ordinance are before the Common Council and the Plan Commission as the result of a purported petition therefore having been filed and not as the result of the introduction or sponsoring thereof by any member of the City Council. This conclusion is substantiated by each and all of the following factors:

a) When a member of the Common Council sponsers and introduces a bill for the adoption of an ordinance by the Common Council he need not pay any filing fee therefore. As evidenced by the Xerox copy of the receipt which is attached hereto, and made a part hereof and marked Exhibit "E", the petitioners, in this case, paid a filing fee of $25.00 on June 3, 1970.

b) Although the name of Jack K. Dunifon, Chairman of the Regulations Committee, of the Fort Wayne Common Council, appears on the face of the bill, his affidavit which is attached hereto, made a part hereof and marked Exhibit "D" clearly explains the administrative function which he was required to perform in his capacity as Chairman of the Regulations Committee in accordance with the prescribed procedures of the Common Council.

c) If the proposed bill and ordinance had been introduced by a member of the Common Council on his own initiative there would be no petition for its introduction. In this case, however, the file contains a petition signed by 211 individuals which, obviously, was an attempt to comply with the requirements of Burns' Ind. Stats. 53-764 to have the said zoning map amended as the result of a petition filed by the owners of more than fifty per cent (50%) of the real estate involved.

CONCLUSION

10. Since the subject ordinance:

1) was not sponsored by the Common Council or any member thereof in the manner prescribed by statute for such introduction;

2) was not petitioned for by the City of Fort Wayne Plan Commission;

3) was not petitioned for by the Owners of fifty per cent (50%) or more of the land involved; and

4) was introduced to the Common Council of the City of Fort Wayne only upon the mistaken belief that a petition for its adoption had been duly signed by the Owners of fifty per cent (50%) or more of the land involved,

it is clear that the subject ordinance should never have been

introduced to the Common Council at all. Apparently the Common Council accepted and relied upon the representation of the petitioners that they were the owners of fifty per cent (50%) of the land involved without verification thereof.

Now that it is clear that there was no proper basis for the introduction of the subject ordinance it is respectfully moved and recommended that:

(1) The Plan Commission of the City of Fort Wayne take no further action with regard thereto but return the proposed ordinance, without action, hearing or recommendation to the Regulations Committee of the Common Council for such action as it may deem appropriate.

(2) Upon its receipt of the said ordinance, the Regulations Committee of the Common Council adopt a resolution recommending to the Common Council that the subject ordinance be withdrawn or dismissed until such time as the Council is presented with a proper petition therefore and that the pending petition be dismissed.

Respectfully submitted,

LIVINGSTON, DILDINE, HAYNIE & YODER

By ______________________
(William P. Fagan)
Attorneys for Remonstrators

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of July, 1970, I personally served a copy of the above and foregoing Supplemental Memorandum by delivering a copy of the same to the Clerk of the City of Fort Wayne, the Fort Wayne Plan Commission, J. Robert Arnold, Attorney for the City of Fort Wayne, and Ralph Blume, of Nieter, Smith, Blume, Wyneken, Dixon & Levine, Attorney for Petitioners.

William P. Fagan

(William P. Fagan)

CERTIFICATE OF THE AUDITOR OF ALLEN COUNTY, INDIANA

July 24, 1970

I, WALTER SUMMERS, HEREBY CERTIFY that I have examined the petition, consisting of sixteen (16) counterparts signed by 211 individuals, to rezone the following described real estate, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibell Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exner's Addition, Lots 7 to 21 in Exner's Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exner's Addition Section C, Lots 27, 28, 29, and 44 in Exner's Addition Section C Amended, Lots 45 to 77 in Exner's Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana,

a Xerox copy of each of which counterpart is attached hereto, numbered 1 through 16 inclusive, and made a part hereof, and that the said petition is correctly signed by what purports to be the signatures of all of the record owners of only the following described lots:

<u>Sanibel Acres Addition</u>

Lots 1-2-3-9-13-14-15-18-19-25-28-32-33-34-36-46-50-52.

<u>Exner's Addition</u>

Lots 5-6-7-9-10-14-15-16-17-18-19-28-31-33-34-36-37-41-43-45 ex.So. 110 ft.-46-47-48-52-53-55-58-62-67-69-70-71-72-73-74-77

EXHIBIT "B"

Gerke's Trier Road Addition

Lots 2-7-8-13.

Gerke's Trier Road Addition Section 2

Lots 1-4-5-8-9-12-13-14-19-20-22-24-
43-44-47.

Gerke's Trier Road Addition Section 3

Lots 51-54-59-60-66 and E. ½ of 67-70.

WALTER SUMMERS,
Auditor of Allen County, Indiana

By Gerald Couture
(Gerald Couture) Deputy

PETITION TO REZONE

Signatures 21 property owners *McNelles*

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~[illegible]~~ *RA* District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Sophie L. Washburn	*4104 Hobson Rd*
Ronald E. Washburn	*4104 Hobson Rd.*
Alice R. Baue	*3311 Sanibel Dr.*
Ron D. Baue	*3311 Sanibel Dr.*
Paul C. Bruggner	*3312 Sanibel Dr.*
Robert L. Greenlee	*3344 Sanibel Dr.*
Jean L. Greenlee	*" "*
Fred Graft	*3420 " "*
Rose Marie Graft	*3420 Sanibel Dr.*
Richard J. Paxton	*4030 Captiva Dr.*
Patricia J. Paxton	*4030 Captiva Dr.*

(over)

Elmer E. Ehmke 3728 Oak Park Dr
Kathleen L. Cummins 3808 Oak Park Dr
Robert C. Cummins " " " "
F.C. Hissutt 3816 Oak Park Dr
Martha C. Hessutt
Kirk G. Carrington 3821 Oak Park Dr
Marilyn Carrington
Esther Murphy 3815 Oak Park Dr
Frank Murphy 3815 Oak Park Dr
Ruthie Kruse 3805 Oak Park Dr
Bula C. Noyes 4021 Trier Rd
Jon L. Noyes 4021 Trier Rd
(Mrs.) A. Marie 3927 Trier Road
Nadine A. Stuberg 3915 Trier Rd
Ruth E. Simmers 3861 Trier Rd.
Cora M. Mc Intosh 3843 Trier Rd.
C.H. Mc Intosh 3843 Trier Rd
~~Mrs. Lloyd G. Heimann 3749 T~~
Jacquelyn G. Heimann 3749 Trier Rd
Jack R. Marquart 3715 Trier Road
Rose Ellen Marquart 3715 Trier Road
Miriam S. Mendenhall 3641 Trier Rd.
Murry Mendenhall 3641 Trier Rd

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an [illegible] District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Richard C. [illegible] — 4233 Hampshire Dr.

[illegible] — 4233 Hampshire Dr.

Louis K. Moses — 4211 Hampshire Dr.

Mary E. Moses — 4211 Hampshire Dr.

[illegible] — 4125 Hampshire Dr.

B. Faye Hoke — 4125 Hampshire Dr.

[illegible] — 3706 Ferndale Dr.

Eileen K. [illegible] — " "

Neil J. Frato — 3716 Ferndale Dr

Betty M Frato — 3716 Ferndale Dr

[illegible] — 3726 Ferndale Dr

[illegible] — 3726 Ferndale Dr

3

(over)

Mrs R. L. Wray 4311 Wyandotte Dr.
Cecil L. Wray 4311 Wyandotte Drive Dr.
M. O. Clark 4321 Wyandotte Drive
Marvin R. Gramling 3855 Plymouth Rd.
Hazel D. Gramling 3855 Plymouth Rd.
Mrs. Geo. Hoeglein 3833 Plymouth Dr
Mildred G. Hoeglein 3833 Plymouth Dr
Patsy R. McNeal 4322 Hampshire Dr
Jack M. McNeal 4322 Hampshire Dr
Helen L. Horton 3812 Plymouth Rd.
Dale E. Horton 3812 Plymouth Rd.
Mary L. Stuck 3732 Stellhorn Rd.
Mary L. Stuck 3732 Stellhorn Rd.
Betty M. Seneff 3754 Stellhorn Rd
Charles Seneff 3754 Stellhorn Rd
Gail F. Lamm 3810 Stellhorn Rd
Hildegarde Carman 3810 Stellhorn Rd
Hildegarde M. Menking 3828 Stellhorn Rd.
Marie O. Johnson 4343 Wyandotte Dr.
James L. Johnson 4343 Wyandotte Dr.
Anne C. Immel 3942 Stellhorn Rd.
Leila K. Bartz 3954 Stellhorn Rd
Julius H. Bartz " " "

4

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

[illegible] 4015 Captiva Drive

Betty Failor 4012 Captiva Dr.

Richard [illegible] Failor 4012 Captiva Dr

[illegible] 3912 Captiva Dr.

[illegible] 3912 Captiva Dr.

Mary [illegible] Marrs 3911 Captiva Dr.

Frank [illegible] Marrs 3911 Captiva Dr.

[illegible] 3830 Captiva Dr.

[illegible] 3830 Captiva Dr.

[illegible] 3820 Captiva Dr.

[illegible] 3820 Captiva Dr.

5

(over)

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an R2 District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Corbo's Trier Road Addition, Lots 1 to 47 in Corbo's Trier Road Addition Section II, Lots 48 to 86 in Corbo's Trier Road Addition Section III, Lots 1 to 6 in Exmore Addition, Lots 7 to 21 in Exmore Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exmore Addition Section C, Lots 27, 28, 29, and 44 in Exmore Addition Section C Amended, Lots 45 to 77 in Exmore Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northeast one-quarter of Section [illegible], Township [illegible] North, Range 13 East, all in St. Joe Township, Allen County, Indiana.

Herbert J. Grant Jr. — 3668 Stellhorn Rd.

MARVIN E. ROSEBERRY — 3327 Sanibel Dr.

Beverly Jo Roseberry — 3327 Sanibel Dr.

Jack N. Jones — 3310 St. Croix Drive

Evelyn R. Jones — 3310 St. Croix Dr.

Helen L. Cordes — 3815 Evergreen Lane

Charles E. Cordes — 3915 Evergreen Lane

Robert W. Bolyard — 3923 Evergreen Lane

Lillian L. Bolyard — 3923 Evergreen Lane

Harold C. Hickey — 3917 Hampshire Dr.

Patty J. Hickey — 3917 Hampshire Dr.

Gallord F. Goffel — 3706 South Dr.

Carl K. Bellen — 3720 Stellhorn Rd.

6

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an [illegible] District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Edmund R. Meyer, Sr. 3810 Ferndale Drive
Geraldine D. Meyer 3810 Ferndale Drive
Sharlene H. Buse 3735 Brunnel Drive
Thomas W. Stumpf 3753 Brunnel Drive
Judith K. Stumpf 3753 Brunnel Dr
Norma L. Snyder 3771 Brunnel Dr.
Helen J. Repka 3809 Brunnel Dr.
[illegible] J. Repka 3809 Brunnel Dr.
June R. Davis 3827 Brunnel Dr
Melva A. Wade 4216 Wyandotte Dr.
Vivian Woods Kowalski 4232 Wyandotte Dr.
Robert C. Kowalski 4232 Wyandotte Dr
Geraldine L. Hegerfeld 4332 Wyandotte Dr.
Donald J. Hegerfeld 4332 Wyandotte Dr.

(over)

[illegible] 3872 Plymouth Rd.

Dick W. Hemphill 3872 Plymouth Rd

Margaret L. Hemphill 3872 Plymouth Rd.

Dorothy E. Fee 3832 Plymouth

John A Fee 3832 Plymouth Rd

Rita Bergdorf 3736 Plymouth Rd

[illegible] Bergdorf 3736 Plymouth Rd

Doris Gene Rice 3908 South Dr

Roy K Rice 3908 South Dr.

[illegible] L. Murphy 3927 South Dr

Delbert F. Waltjok 3919 South Dr

Henry K. Gill 3907 SOUTH DR

James Newville 3707 South Dr

John W. Mitchell 3718 Oak Pk Dr

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~[illegible]~~ RA District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Jane B. Novak

Irene E. Beck - 4009 Cherrystone Ln.

Herbert C. Beck 4009 Cherrystone Lane

~~Mrs.~~ James R. Davis - 3345 Sanibel

~~Mrs.~~ Paul C. Bruggner 3312 Sanibel

~~Mrs.~~ ~~Richard~~ Eileen M. Kues 4010 Hobson

Richard Kues 4010 Hobson

Donald Fechner 3823 Evergreen Lane

Mary Fechner 3823 Evergreen Lane

Opal Gardner 3821 Evergreen Lane

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Donald H. Hess 3708 Oakpark Drive

Delores M. Hess 3708 Oakpark Drive

John Wendling 3863 WYANDOTTE DR.

Alice L. Wendling 3863 Wyandotte Dr

Mary C. [illegible] 3844 Wyandotte Dr

Lennie M. Messina 3843 Wyandotte Dr.

Rosemary E. Oblom 3823 Wyandotte Dr.

R. D. Oblom 3823 Wyandotte

J. L. Castator 3832 Wyandotte Dr

Juanita B Castator 3832 Wyandotte Dr.

Lena F. [illegible] 3842 Wyandotte Dr.

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~R3~~ RA District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exmers Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exmers Addition Section C, Lots 27, 28, 29, and 44 in Exmers Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

James L. Fanger 3730 Ferndale Dr.
Phyllis M. Fanger " " "
James D'Angelo 3736 Ferndale Dr.
Mary D'Angelo " "
Marianne Heineman 3768 Ferndale Dr.
Charles E. Heineman 3768 Ferndale Dr.
Maynard H. Cook 3736 Brumeal Dr.
James R Humphrey 3808 Bruneal Dr.
[illegible] 3808 Bruneal Drive
Earl E. Ba[illegible] 3828 Bruneal
[illegible] 3828 Bruneal
[illegible] 3852 Bruneal Dr
[illegible] 3852 Bruneal Dr

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Duane Simmons - 3827 Ferndale Drive

[illegible] Simmons " " "

K. P. Gordon - 4106 Wyandotte Dr.

Catherine M. Gordon - 4106 Wyandotte Dr.

Hazel Hubbard 4026 Wyandotte Dr

Pauline J. Farrar 4016 Wyandotte Dr

James C. Farrar " " "

Jane L. MacNamara 5751 Plymouth Rd.

Ruth E. MacNamara " "

Marilyn [illegible] Kovat 3852 Ferndale Dr

Herald W. Waldrop - 3828 Ferndale Dr.

Elva L. Waldrop " " "

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Donald Brogan - 3864 Wyandotte Dr.

Mary A. Brogan - 3864 Wyandotte

Oscar D. Hill - 3714 Plymouth Rd.

Norma Lee Hill 3714 Plymouth Rd.

Robert C. Swain 4120 Hampshire Dr.

Emily J. Swain 4120 Hampshire Dr.

Edson Dickey 4112 Hampshire Dr.

Gertrude Dickey 4112 Hampshire Dr

Robert M. Ayers 3751 Ferndale Dr.

[illegible] M. Ayers 3751 Ferndale Dr.

[illegible] 3771 [illegible] Dr.

10

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

[illegible]	3810 Captiva Dr. Ft. Wayne Ind.
Ray E. Bailey	3531 Trier Road Fort Wayne Ind.
Elizabeth L. Bailey	3531 Trier Road Ft Wayne Ind.
Jean Barrett	3415 Trier Rd.
[illegible] R. Mowery	3407 Trier Rd.
[illegible] Schoenefeld	3322 St. Croix Dr.
Eleanor Schoenefeld	3322 St Croix Dr
Louise Sharon	3334 St Croix Dr.
[illegible] H Kappes	3404 St Croix Dr
[illegible] Kappes	"
[illegible] Brinker	3414 St. Croix Dr
Nancy A. Brinker	3414 St. Croix Dr.

14

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an ~~C2~~ RA District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 48 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

Robert W. Phillips 3826 Oak Park Dr

[illegible] 3906 Oak Park Dr

Albert G. Eisenhauer 3910 Wyandotte Dr

Elma A. E. Eisenhauer 3910 Wyandotte Drive

Mildred M. McGee 3920 Wyandotte Dr.

David H. Leamon Jr 4004 Wyandotte Dr

June L. Leamon 4004 Wyandotte Dr

Marty Busick 3917 Oak Park Dr

Josie Harden 3905 Oak Park Dr

Floyd Harden " " " "

Donald L. Grice 3711 Oak Park Drive

PETITION TO REZONE

We, the undersigned, being the owners of more than fifty-one (51%) percent of the real estate hereinafter described, do hereby respectfully petition the Common Council to enact an ordinance to reclassify from an RA District to an R-1 District, the real estate described as follows, to-wit:

> Lots 1 to 18 in Sanibel Acres Addition, Lots 19 to 45 and Blocks "A" and "B" in Sanibel Acres Section "B", Lots 1 to 13 in Gerke's Trier Road Addition, Lots 1 to 48 in Gerke's Trier Road Addition Section II, Lots 49 to 86 in Gerke's Trier Road Addition Section III, Lots 1 to 6 in Exners Addition, Lots 7 to 21 in Exners Addition Section B, Lots 22 to 26 and Lots 30 to 43 in Exners Addition Section C, Lots 27, 28, 29, and 44 in Exners Addition Section C Amended, Lots 45 to 77 in Exners Addition Section D, and all legal streets and roads in said additions, according to the recorded plats thereof, and the Northwest one-quarter of the Northwest one-quarter of Section 29, Township 31 North, Range 13 East, all in St. Joseph Township, Allen County, Indiana.

[illegible] 3821 Evergreen

Carl P. Backus 3829 Evergreen Lane

George A. Bruce 3847 Evergreen Lane

Alberta Bruce 3847 Evergreen Lane

Daniel J. Johnson 3907 EVERGREEN LANE

Bernice A. Johnson 3907 Evergreen Lane

[illegible] 3916 Evergreen Lane

Walter Bush 3931 Evergreen Lane

[illegible] 3626 Oakpark Dr

[illegible] 3626 Oak Park Dr.

Bernice [illegible] 3826 Oak Park Dr

STATE OF INDIANA)
) SS: AFFIDAVIT
COUNTY OF ALLEN)

JEROME E. EGGERS, having been first duly sworn upon his oath, deposes and says that:

1. He has examined the certificate of the auditor of Allen County dated July 24, 1970 with regard to which owners of lots in Sanibel Acres Addition, Gerke's Trier Road Addition, Gerke's Trier Road Additions Section 2 and 3, and Exner's Addition, signed a certain petition to rezone that land which Petition is attached to the said auditor's certificate;

2. He has also examined page 31-13-29 B of Sidwell's Aero-Plat of Allen County, Indiana and computed the number of square feet in each of the lots reflected on the auditor's said certificate. Thereafter, he totaled the number of square feet included within the lots enumerated on the auditor's said certificate and converted the aggregate square footage to a number of acres by dividing it by 43,560 square feet per acre.

3. That such examination and computations reflect that there are eighty (80) lots enumerated on the auditor's said certificate which consist of, in the aggregate, 1,523,431 square feet which are 35 acres.

Further affiant sayeth not.

Jerome E. Eggers

Jerome E. Eggers

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 24 day of July, 1970.

Charlotte P. Brown

Notary Public

My Commission Expires:

March 6, 1974

NOTARY PUBLIC SEAL INDIANA

EXHIBIT "C"

STATE OF INDIANA)
) SS: AFFIDAVIT
COUNTY OF ALLEN)

Jack K. Dunifon, having been first duly sworn upon his oath deposes and says that:

1. He is a duly elected, qualified and acting member of the Common Council of the City of Fort Wayne, Indiana and the Chairman of its Regulations Committee through which ordinances to amend the zoning map of the City of Fort Wayne, Indiana are introduced to the Common Council.

2. He is the self same Jack K. Dunifon who signed Bill No. Z-70-06-30 now pending before the Common Council and the Plan Commission of the City of Fort Wayne, Indiana to amend the zoning ordinance of the City of Fort Wayne, Indiana;

3. He did not sign said Bill as a sponsoring or proposing member of the Common Council or Regulations Committee thereof but strictly in his capacity as Chairman of the Regulations Committee of the said Common Council upon the belief that the said Regulations Committee had been presented with a petition validly signed by the owners of more than 50% of the real estate to be rezoned for which Petition the neccessary filing fee had been paid.

4. The procedure established by the said Common Council and Regulations Committee thereof requires that if a petition to amend the zoning map is purportedly signed by the owners of fifty percent (50%) or more of the land to be rezoned and the filing fee for such peition is paid, the Chairman of

EXHIBIT "D"

the Regulations Committee must sign the proposed Bill for introduction to the Common Council. He has no choice. Affiant performed that administrative function and nothing more.

5. Affiant has not sponsored and is not sponsoring the said Bill and did not, as a member of the Common Council of the City of Fort Wayne, introduce the said Bill.

Further affiant sayeth not.

Jack K. Dunifon

(Jack K. Dunifon)

Subscribed and sworn to before me, a Notary Public, this 23 day of July, 1970.

Charlotte P. Brown

Notary Public

My Commission Expires:

March 6, 1974

Prescribed by State Board of Accounts

A.E. BOYCE CO., MUNCIE, IND. GENERAL FORM NO. 959

RECEIPT

GENERAL FUND

№ 12

FT. WAYNE, IND. June 3 1970

RECEIVED FROM Maxwell Smith & Paul F. Nieter $ 25.00

THE SUM OF Twenty-five and no/100 DOLLARS

ON ACCOUNT OF Re zoning of Sanibel Acres Add, etc

Ann Rogers

AUTHORIZED SIGNATURE

"Exhibit E"

CITY COURT
FILED
JUL 24
FUAD G. BONAHOOM
CLERK, CITY COURT

Sidwell Studio, Inc.
West Chicago, Illinois

31-13-29B

FORT WAYNE & ST. JOSEPH TWP.

N.W. 1/4 SEC. 29

SCALE: 200 FT. TO 1 INCH T.31N. R.13E. OF THE 2nd P.M.

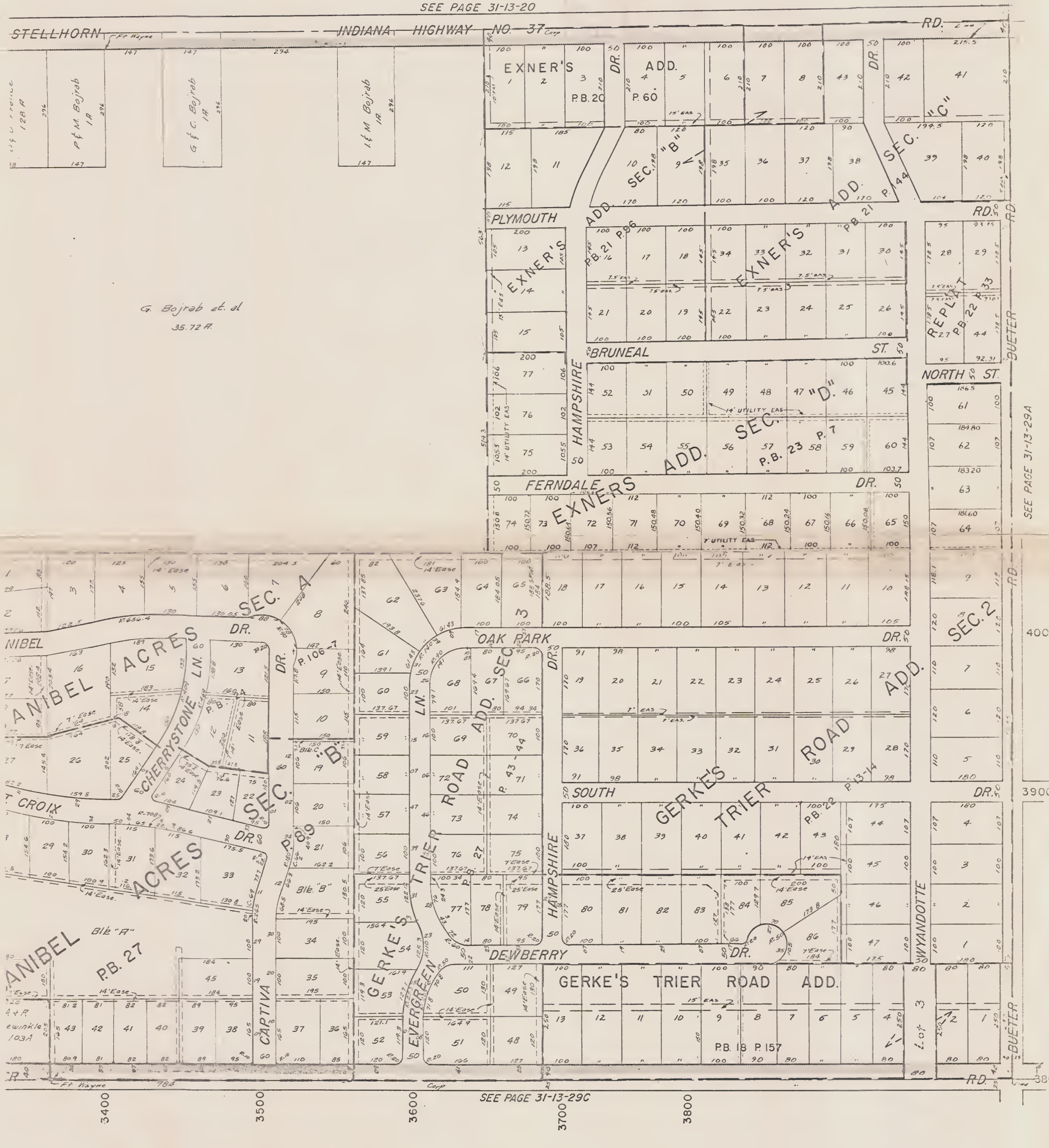

EXHIBIT "A"

Z-70-06-30